

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	2042.03
COMPLAINT INVESTIGATOR:	Sally Cook
DATE OF COMPLAINT:	May 22, 2003
DATE OF REPORT:	June 19, 2003
REQUEST FOR RECONSIDERATION:	no
DATE OF CLOSURE:	July 15, 2003

COMPLAINT ISSUES:

Whether the Gary Community Schools violated:

511 IAC 7-25-3(b) by failing to implement the school corporation's general education intervention procedure, at the building level, for students whose classroom performance is adversely affecting educational outcomes.

511 IAC 7-25-2(a) and (b)(3) by failing to implement the school corporation's child identification procedures that ensure the location, identification, and evaluation of students for whom a pattern of behavioral or performance concerns, within the school setting, demonstrates the need for special education and related services.

FINDINGS OF FACT:

1. Student A is almost thirteen years old and has not been determined eligible for special education and related services, but Complainant alleges that Student A is a student for whom a pattern of behavioral or performance concerns within the school setting demonstrates the need for such services. Student B is twelve years old and has not been determined eligible for special education and related services, but Complainant alleges that Student B is a student for whom a pattern of behavioral or performance concerns within the school setting demonstrates the need for such services. Complainant is employed by a private agency (Private Agency) that contracts with the County Office of Family and Children (County DFC) to provide services to children.
2. Students A and B are wards of the state, having been removed from their home for suspected or actual neglect or abuse. On November 6, 2002, following the Students' removal from their home, the Court issued an Order, including a probable cause finding, placing Students A and B in the temporary custody of the County DFC and authorizing the County DFC to file a Children in Need of Services (CHINS) petition. No subsequent court orders have been provided to the Complainant.
3. Student A and Student B were placed in a children's shelter by the DFC (Foster Placement #1). On or about October 22, 2002, Student A and Student B were enrolled in the middle school (Middle School) serving the area in which Foster Placement #1 is located.
4. The Middle School requested the Students' educational records and learned that grades and test scores during the two preceding school years did not indicate academic or behavior problems.

5. Student A and Student B did acceptable academic work, but did engage in unacceptable behavior at the Middle School. The Middle School utilized parent/staff conferences (i.e., conferences with persons understood to be the Students' guardians), counselor intervention, and disciplinary actions to address the Students' behaviors. Disciplinary actions eventually included suspensions.
6. On March 6, 2003, the principal of the Middle School completed the referral of Student B to an alternative school having a middle school program (Alternative School). The principal met with the County DFC case manager before completing the referral. Student A's inappropriate behavior escalated when Student B went to the Alternative School. On March 7, 2003, Student A was referred to the same Alternative School. The County DFC case manager signed Student A's Alternative School Referral Form.
7. The Alternative School is part of the general education system and not the special education department. There is one special education class at the Alternative School. Entrance criteria for the Alternative School are: Student has not complied academically and would benefit from alternative instruction; or Student is a disruptive student (as defined in IC 20-10.1-4.6-1.6). The Alternative School is designed to benefit 6th, 7th, and 8th grade students who choose an alternative to suspension/expulsion, students with attendance problems, students with chronic disruptive behavior, students who have been expelled, and students who are at high risk of dropping out. Key features of the Alternative School's program design include behavior modification (e.g., anger management, conflict resolution, etc.), individualized programs including collaborative teaching, life skills training, mentoring, remediation, self-paced/accelerated learning, and tutoring. The Alternative School offers counseling, drug/alcohol prevention groups, violence prevention and other social services. The Alternative School issues monthly blue sheets to report progress to parents. The Alternative School requires parent contracts, which in the case of Students A and B were signed by the County DFC case manager and a foster parent.
8. On or about April 4, 2003, Student A and Student B were moved to a foster home (Foster Placement #2) supervised by the Private Agency that employs the Complainant.
9. On May 6, 2003, Student A's and Student B's foster parents for Placement #2 submitted to certified personnel written requests for evaluation of Student A and Student B. The foster parents had not received educational surrogate parent training and had not been assigned by the school corporation as the educational surrogate parents for Student A or Student B. On May 8, 2003, a County DFC employee signed consents to evaluation for Student A and for Student B. The written requests for evaluation and the consent forms were not forwarded to the special education department.
10. On or about May 16, 2003, Student A was moved to a new foster home (Foster Placement #3A). At the same time Student B was moved to a different new foster home (Foster Placement #3B).
11. School personnel did not attribute Student A's behavior or Student B's behavior to disabilities or a need for special education services.
12. On or about May 16, 2003, prior to the filing of the Complaint, Student A was withdrawn from the Alternative School and enrolled in the school corporation where Foster Placement #3A is located. The school corporation in which Student A enrolled is a different school corporation from the one named in this Complaint.

CONCLUSIONS:

1. Findings of Fact #5, #6, and #7 indicate that general education interventions were utilized to address Student A's behavior and Student B's behavior. Therefore, no violation of 511 IAC 7-25-3(b) occurred.
2. In light of the history described in Finding of Fact #4, and given that the circumstances described in Findings of Fact #2, #3, #8, and #10 occurred over a period of less than seven months, the School's determination, as indicated by Finding of Fact #11, was not a failure to implement child identification procedures. Finding of Fact #9 indicates that educational evaluations were not requested or consented to by a parent, as defined at 511 IAC 7-17-57, or by an educational surrogate parent, as defined at 511 IAC 7-17-30 and appointed in accordance with 511 IAC 7-24. Therefore, no violation of 511 IAC 7-25-2(a) or (b)(3) occurred.

The Department of Education, Division of Exceptional Learners requires no corrective action based on the Findings of Fact and Conclusions listed above.